

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LA'KESHA MANNING,

Plaintiff,

v.

FXI, INC.,

Defendant.

CASE NO. C21-1233-LK

ORDER GRANTING
DEFENDANT'S MOTION TO
AMEND

This matter comes before the Court on Defendant's Motion to Amend Answer and Affirmative Defenses in this employment related suit. Dkt. No. 11. Defendant seeks to add an additional affirmative defense that states, "Pending discovery, one or more of Plaintiff's claims are subject to preemption under *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 (1959), and its progeny." Dkt. No. 12-1 at 13. Plaintiff did not file a response to the motion, which the Court construes as an admission that the motion has merit. LCR 7(b)(2).

Furthermore, courts "should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). In evaluating a motion to amend, courts consider "bad faith, undue delay, prejudice to the opposing party, futility of amendment, and whether the plaintiff has previously amended the

1 complaint.” *United States v. Corinthian Colls.*, 655 F.3d 984, 995 (9th Cir. 2011). Defendant has
2 not previously amended its answer. There is no evidence in the record of undue delay. This case
3 was filed in August 2021, removed shortly thereafter, and Defendant filed this motion in
4 December 2021. Dkt. Nos. 1, 11. Nor is there evidence that Plaintiff would suffer prejudice if
5 Defendant is allowed to add its new affirmative defense. The parties have not yet exchanged
6 written discovery; the deadline for completing discovery is August 7, 2022. Dkt. No. 10. Trial is
7 set to commence in December 2022. *Id.* Therefore, ample time remains to conduct discovery and
8 litigate the new affirmative defense.

9 For all the foregoing reasons, the Court GRANTS Defendant’s motion to amend its
10 answer. Dkt. No. 11. Defendant shall file its amended answer within 14 days of the date of this
11 order.

12 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
13 to any party appearing pro se at said party’s last known address.

14 Dated this 2nd day of February, 2022.

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Lauren King
17 United States District Judge
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